

January 22, 2008

Sean McVeigh, EEO
Agency of Natural Resources
Enforcement Division
103 South Main Street
Waterbury Vermont 05671

Steven and Barbara LaRosa
2012 Main Street
Montpelier Vermont 05602

Re: Composting Operations by Vermont Compost Company, Inc.
City of Montpelier and Town of East Montpelier
Jurisdictional Opinion 5-08-1

Dear Mr. McVeigh and Mr. and Mrs. LaRosa:

This letter constitutes a jurisdictional opinion, pursuant to the provisions of 10 V.S.A. 6007(c) and Natural Resources Board Rule 3, with respect to whether composting operations by Vermont Compost Company, Inc. (VCC) on sites in the City of Montpelier and the Town of East Montpelier, require a land use permit under 10 V.S.A. Chapter 151 (Act 250). This jurisdictional opinion was initially requested by Agency of Natural Resources Environmental Enforcement Officer (EEO) Sean McVeigh on December 12, 2006 and was followed by a later request from Steven and Barbara LaRosa on November 13, 2007. As will be discussed below, the conclusion stated in this jurisdictional opinion is that the VCC operations at Vincent Flats and 1996 Main Street require a land use permit. The construction of improvements for farming use at 1996 Main Street are exempt from Act 250.

PROCEDURAL HISTORY

Following receipt of the December 12, 2006 request for a jurisdictional opinion by the EEO, who had had reason to visit the VCC site in Montpelier due to a allegation of discharges into surface waters, an assistant district coordinator wrote VCC president and CEO Karl Hammer on March 13, 2007 requesting a meeting in order to ascertain pertinent facts concerning the operations. The assistant district coordinator then corresponded with the VCC president on May 23, 2007 summarizing available facts and requesting further details about the content of the compost. In a letter dated June 1, 2007, the VCC president requested an extension of time until August 15, 2007 to provide factual details and a position on jurisdiction. Following receipt of a submittal dated

August 14, 2007 from VCC's counsel, the assistant district coordinator responded with details concerning the EEO's request for a jurisdictional opinion. On September 18, 2007, VCC's counsel filed a motion to dismiss the request for a jurisdictional opinion. On October 2, 2007 VCC's counsel provided a comprehensive jurisdictional submittal consisting of an affidavit from the VCC president, and related attachments, and a memorandum of law. The assistant district coordinator notified statutory parties on October 2, 2007 of both the request for a jurisdictional opinion and the motion to dismiss; the parties were requested to file any positions by October 12, 2007. The assistant district coordinator and the district coordinator visited the 1996 Main Street site on October 9, 2007 in the company of the VCC president in order to view the construction of improvements and land uses. On October 12, 2007, Barbara LaRosa, an adjoining property owner to the VCC Montpelier site, provided the District 5 office with a copy of her October 10, 2007 letter to the City of Montpelier discussing impacts from the VCC operation. The LaRosa letter was forwarded to VCC counsel on October 16, 2007*. On November 13, 2007 the LaRosas filed a position on relevant facts and a jurisdictional analysis including a request for a jurisdictional opinion. VCC was then afforded a 15 day period to provide any reply position to the LaRosa filing. The Agency of Agriculture and the City of Montpelier filed positions on jurisdiction on November 28 and November 30, 2007, respectively. On December 3, 2007, the District 5 office received a copy of a November 29, 2007 letter from the Solid Waste Management Program of the Department of Environmental Conservation to the VCC president explaining the role of the Agency of Natural Resources with respect to composting facilities. A final VCC submittal was received on January 10, 2008.

FACTS

City of Montpelier Site

1. VCC incorporated on May 20, 1993 under Vermont law according to filings with the Office of the Secretary of State. The corporation's description was stated as "compost sales".
2. According to materials filed with the City of Montpelier Planning Commission in 1998, VCC indicated Karl Hammer had purchased a property at 1996 Main Street in 1996 from Harrison and Clara Knapp, who, according to the VCC submittals, had conducted farming on the tract.
3. The VCC 1998 filings with the City Planning Commission include a narrative which describes farming activities then underway by VCC on the 1996 Main Street tract. These activities were the planting of perennial foundation stock, sales of some of this stock, crop rotation of sod and mixed vegetables, pasture use by equines and a "modest" compost production area to provide for farm needs and for sale. Future proposed uses included greenhouse development, an irrigation system and the production of horticultural composts.

* The assistant district coordinator recused herself from this matter following receipt of the LaRosa letter and on October 19, 2007 the district coordinator corresponded with VCC counsel concerning the LaRosas and steps to be taken toward issuance of a jurisdictional opinion.

4. The 1998 application to the City Planning Commission was for the establishment of a commercial compost facility at the farm and residence at 1996 Main Street. Compost would be produced both from materials on the 1996 Main Street site and from imported material. The compost would support agricultural operations at the site and also be packaged for sale.
5. The 1996 Main Street tract consists of approximately 45 acres which VCC describes as being 1) approximately 16.5 acres comprised of homestead, barn structures, a green house, storage areas and barnyard and 2) approximately 29 acres managed as pasture, crop and forest.
6. At the time of the 1998 City review, existing structures on the tract were the residence and a 30 x 40 barn constructed prior to 1970. City staff described a new road under construction to the compost storage area and another road with truck turn-around leading to the compost production area. A gravel parking area for 6 vehicles had also been established.
7. A 30 x 42 structure was built in 1998 connected to the barn. A 42 x 62 structure was built in 2001 and a 6,500 square foot barn was added in 2006. Also present on the tract are a 30 x 30 pole barn for mules and some hens, and a 24 x 30 chicken house with attached 16 x 12 food residual tote washing shed. Two or three chicken colony sheds are also situated on the site.
8. In 1998 VCC received a \$5,000 grant from the Agency of Natural Resources, the purpose of which was to ascertain whether a flock of laying hens could be productive when foraging for feed in a blend of farm sourced residuals and food residuals diverted from the region's solid waste stream.
9. VCC introduced 250 egg laying hens to the site in 1998 and began to blend bulking agents with food residuals.
10. In 1999 VCC received a second grant from the Agency of Natural Resources in the amount of \$10,000 for ongoing research relative to the feeding of hens.
11. As of late 2007, some 1,200 chickens were present on the site. Additionally, 7 equines (4 mules and 3 donkeys) are also present on the site for power and predator protection. Their manure is added to the compost mix.
12. Materials are brought to the site from the VCC Vincent Flats site in the Town of East Montpelier [See findings 26 through 37 below] and from other sources. Table 2 attached to the Hammer October 1, 2007 affidavit reflects the quantities of materials from the period August 1, 2006 through July 31, 2007.
13. With two exceptions, all of the materials deposited at the site are for the feeding, bedding or thermal support of poultry and other livestock and for leachate filters. The two exceptions are the manure compost produced at Vincent Flats and amendments (eg

sphagnum, vermiculite, perlite, bloodmeal, etc) added at 1996 Main Street to the finished compost to produce compost based horticultural substrates identified in table 3 attached to the Hammer affidavit.

14. Table 2 reflects that two categories of material were imported to VCC's Montpelier site: "on-farm source" and "other farm/land sources". The total of "on-farm" materials imported was 236 yards and the total of "other" was 1,520 yards, which included 722 yards of food residuals. Table 2 shows that another 503 yards of "other" materials were brought to the site for use as bedding, filters, check dams and mulch. All imported materials were for the "aid and comfort" of the chickens.
15. Table 1 states that 2,923 yards of compost were transported to 1996 Main Street from the Vincent Flats site.
16. While present on the site, all materials cited in finding 14 are moved, rolled and re-piled to afford chickens good access for foraging. The only use of the materials over the first several weeks on the site is for food, thermal support and excreta/odor management for the poultry operation. During this period, chicken excreta is incorporated into the mix both as they forage for food and after being collected from the chicken barn. An estimated 12 to 14 tons of chicken excreta is generated annually and is mixed into the forage mix.
17. All materials cited in finding 14 are either eaten by the chickens or used for thermal purposes, the management of excreta, for odor control or to grow food stuffs for the chickens.
18. Several products result at this site: 15,000 dozen eggs per year, approximately 439 yards of harvested compost and vegetables and flowers, the latter also involving use of the greenhouse for both horticultural and husbandry purposes.
19. After the assorted poultry feedstock materials have progressed metabolically to be classified as the 439 yards of "mature compost", it is either sold as compost or blended with amendments to make mixes for horticultural uses. The percentages of "mature compost" and blending materials (See "amendments" in finding 13 above) in the horticultural mixes are specified in Table 3.
20. Each of the seven manufactured compost based horticultural products produced at 1996 Main Street contain three parts manure compost transported from the Vincent Flats site and one part compost produced at 1996 Main Street.
21. Two types of products are produced at 1996 Main Street: the compost produced through the chicken foraging and the horticultural blends which include use of the manure compost transported from the Vincent Flats site.
22. Table 3 provides the ratio of the two compost streams (ie Vincent Flats produced and 1996 Main Street produced) to other ingredients (ie the amendments), the mix of which results in VCC's seven manufactured horticultural products. These mixes show a range of imported

material (amendments) by weight from 32% to 7% in the product.

23. VCC's "perennial mix" products has the lowest dry weight percentage of compost (68% compost and 32% other) according to Table 3. VCC estimates that three-quarters of this compost quantity comes from the Vincent Flats site. Thus, 54% of the "perennial mix" is from the Vincent Flats site.
24. Some of the mature compost produced at this site is sold "as is".
25. The Solid Waste Management Program of the Department of Environmental Conservation does not consider discarded food utilized as animal feed as a regulated waste. Similarly, the program does not regulate animal manure and absorbent bedding used for soil enrichment, nor is "site-generated" plant, wood and food waste regulated. The Program has not issued a categorical composting facility certification for this site.

Town of East Montpelier Site

26. The VCC site in the Town of East Montpelier is located off Vincent Flats Road on an 11 acre portion of a larger tract owned by Fairmont Farms, Inc. Fairmont Farms, Inc. operates a dairy farm.
27. VCC and Fairmont Farms, Inc. entered into an agreement with a 7 year term in June 2001 by which VCC has exclusive access to, and use of, the 11 acre site for the purpose of a composting operation. The agreement states that Fairmont Farms contracts with VCC for services to remove surplus manure and compostable materials from the farm and to establish a composting facility.
28. The agreement states that VCC will construct site improvements on the 11 acre leased parcel in order to create the composting facility.
29. The agreement states that VCC pays Fairmont Farms for manure and other acceptable compostable materials and that VCC also makes payments to Fairmont Farms for amounts of materials brought to the parcel from other sources.
30. Fairmont Farms delivers manure and other compostable materials generated on its farm to VCC's 11 acre site. VCC then has sole discretion and control over the disposition of the manure and compostable materials.
31. The Vincent Flats site is within 5 miles of VCC's 1996 Main Street site.
32. Table 1 to the Hammer October 2007 affidavit reflects the materials that Fairmont Farms delivered to the VCC site from August 1, 2006 through July 31, 2007. "On-farm source" materials included materials such as cow manure (4,172 yards) and mortalities (248 yards) for a total of 5,579 yards.

33. The VCC site also receives materials from other farms and sources. The total of these materials was 2,484 yards during the aforementioned time period. VCC brings in these materials - such as horse manure, hay and bark - in order to complete its recipe ratios for compost and soils.
34. The total compost shipped from the Vincent Flats site to the 1996 Main Street site from August 1, 2006 through July 31, 2007 was 2,923 yards. An additional 1,894 yards of compost was sold directly from the Vincent Flats site.
35. Between August 2006 and July 2007, 72% (by weight) of the materials deposited at the Vincent Flats site originated from Fairmont Farms.
36. The Solid Waste Management Program of the Department of Environmental Conservation regulates the Vincent Flats composting facility. The Program issued categorical composting facility certification BR96-0143 for a period running from January 19, 2001 to January 18, 2006.
37. Construction of improvements by VCC at the Vincent Flats site included, at a minimum, grading and the installation of a gate.

Additional Facts

38. The City of Montpelier has duly adopted both permanent zoning and subdivision bylaws.
39. The Town of East Montpelier has duly adopted both permanent zoning and subdivision bylaws.

CONCLUSIONS

Motion to Dismiss the Jurisdictional Opinion

VCC contends that a jurisdictional opinion should not be issued in this matter because the request for the jurisdictional opinion was made by an EEO from the Agency of Natural Resources who should not be considered a “person” within the meaning of 10 V.S.A. 6007(c). VCC also asserts that the jurisdictional opinion process should not be used for enforcement purposes, the EEO having become involved with the VCC site in Montpelier due to complaints alleging discharges.

The Supreme Court held in 2002 that district coordinators, as “officials” of the Environmental Board, were not “persons” in the context of 10 V.S.A. 6007(c) and therefore could not request jurisdictional opinions on their own initiative. [In re: Vermont Verde 174 Vt 208]. As a result, subsequent to Verde, jurisdictional opinions can only be issued at the request of a third party and district coordinators may not issue a jurisdictional opinion sua sponte. It is important to note that with passage of Act 115 in 2003, the Environmental Board was abolished and the successor Natural Resources Board now plays no role in the determination of jurisdiction under Act 250. Thus, a significant rationale behind the Court’s decision - that the Board should not be both an adjudicator of jurisdiction and an enforcer - no longer exists.

The Environmental Board issued a procedural Memorandum of Decision in 2003 in its consideration of a jurisdictional petition [Re S-S Corporation/Rooney Housing Developments Declaratory Ruling 421 (June 12, 2003)] holding that a permit specialist employed by the Agency of Natural Resources is a “person” under the provisions of 10 V.S.A. 6007(c). Looking only at the identity of the requestor, there appears no reason to distinguish between an EEO and a permit specialist.

The request for a jurisdictional opinion by the EEO in the present matter is valid under 10 V.S.A. 6007(c).

The following is in response to the assertion by VCC that in requesting the jurisdictional opinion the EEO violated responsibilities outlined in an Memorandum of Understanding between the Secretary of Agriculture, Food and Markets (AFM) and the Secretary of the Agency of Natural Resources (ANR), as well as series of statutes related to agriculture and water pollution:

- i. The EEO’s obligations to the aforementioned Memorandum of Understanding are not germane to the subject matter for a jurisdictional opinion. Pursuant to 10 V.S.A. §6007(c), a coordinator has the authority and the obligation to follow through with a request for a jurisdictional opinion from any person;
- ii. 6 V.S.A. §4810 focuses on reduction of pollutants entering the waters of Vermont via agricultural land uses by requiring that the Secretary of AFM cooperate with the Secretary of ANR by implementing programs, plans and practices developed for reducing and eliminating agricultural non-point source pollutants. It is focused entirely on state and federal water pollution statutes and is wholly silent with respect to the questions of whether a particular activity may or may not be subject to Act 250 jurisdiction. Nothing in 6 V.S.A. §4810 precludes the district coordinator from making a determination pursuant to 10 V.S.A. §6007(c); nothing in §4810 precludes the EEO from requesting a jurisdictional opinion on an activity considered to be a farm by AFM.
- iii. The determination of a farming activity for Act 250 purposes is determined by the district coordinator in the district in which the activity takes place - farming as defined by 10 V.S.A. §6001(22) is not a determination to be made by the Secretary of AFM. A determination by the Secretary of AFM that VCC is a farm operating under the AAPs is for purpose of determining whether VCC can enjoy the exemption from water quality prosecutions under 10 V.S.A. §1259(f). What may be a farm for AAP purposes is not necessarily a farm for Act 250.

The Memorandum of Understanding does not mention whether an EEO may request a jurisdictional opinion. It is limited to the relationship between AAPs, Best Management Practices BMPs, and the management and enforcement of Vermont’s water pollution control and groundwater protection statutes under 10 V.S.A. Chapters 37, 47 and 48. These are statutes within the sole enforcement authority of ANR, which can be enforced whether or not the VCC property is subject to Act 250. While the Memorandum of Understanding appears to require that EEOs take certain actions when they receive complaints relative to water quality or AAP violations, there is

nothing in the Memorandum of Understanding that prohibits an EEO from requesting a jurisdictional opinion to determine whether an activity is exempt from Act 250 under Act 250's definition of "farming".

Finally, even if it had been concluded that the EEO request for a jurisdictional was invalid, the November 13, 2007 request for a jurisdictional opinion by adjoining property owners Steven and Barbara LaRosa is valid under 10 V.S.A. 6007(c) [See Re: Peter and Carla Ochs Declaratory Ruling 437 Memorandum of Decision (November 22, 2004); Stone Cutters Way Declaratory Ruling 391 Memorandum of Decision (June 1, 2001)].

Construction of Improvements for a Commercial Purpose

Act 250 requires that a land use permit be obtained prior to the commencement of construction on a development [10 V.S.A. 6081(a)]. "Development" is defined in relevant part as "the construction of improvements for commercial or industrial purposes" on more than 10 acres of land, where the construction occurs within a municipality that has adopted both permanent zoning and subdivision bylaws [10 V.S.A. 6001(3)(A)(ii)].

The facts in this matter demonstrate that construction of improvements took place at 1996 Main Street since 1998 and that those improvements were for the purpose of VCC's commercial undertaking of compost sales. Similarly, facts demonstrate that construction of improvements for the same purpose took place at the Vincent Flats site, which is involved land within 5 miles of the 1996 Main Street site [Natural Resources Board Rule 2(C)(5)]. While the physical action at Vincent Flats may have been minimal, it was sufficient enough to qualify as "construction of improvements" under Rule 2(C)(3) and the Environmental Board's holding in Loomis/Green Mountain Archery and Richard H. Sheldon 1R0426-2-EB (December 18, 1997). Thus, because the project meets the definition of "development" under 10 V.S.A. 6001(3)(A)(i) it is subject to permitting under Act 250, unless it is otherwise exempt.

Farming Exemptions Under Act 250

Certain developments are exempt from Act 250, including construction of improvements for farming [10 V.S.A. 6001(3)(D)(i)]

"Farming" for purposes of Act 250 jurisdiction [10 V.S.A. 6001(22)] means:

- A) The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or
- B) the raising, feeding, or management of livestock, poultry, fish, or bees; or
- C) the operation of greenhouses; or
- D) the production of maple syrup; or
- E) the on-site storage, preparation and sale of agricultural products principally produced on the farm; or
- F) the on-site production of fuel or power from agricultural products or wastes produced on the farm; or
- G) the raising, feeding, or management of four or more equines owned or boarded by

the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

The burden of proving that the project fits the farming exemption is upon the person asserting the exemption [Re: Peter and Carla Ochs Declaratory Ruling 437 (July 22, 2005)]. The Environmental Board has directed that the farming exemption is to be read narrowly and only found to apply when the facts clearly support the exemption's application [Re: Richard and Marion D. Josselyn Declaratory Ruling 333 (February 28, 1997)].

Without doubt, the cultivation of vegetables and flowers, the operation of a greenhouse and management of equines are exempt farming activities pursuant to 10 V.S.A. 6001(22)(A), (C) and (G). Likewise, the raising of poultry is exempt from Act 250 - "A farm is still a farm... whether it has seven or 700,000 [or 1,200] chickens..." [10 V.S.A. 6001(22)(B) and See Ochs, supra, at page 15].

The issue in controversy in the present matter is whether the VCC composting operations qualify for exemption as "the on-site storage preparation and sale of agricultural products principally produced on the farm..." [10 V.S.A. 6001(22)(E)]. Specifically, this inquiry focuses on 1) the production of compost at the Vincent Flats site and 2) the preparation of the horticultural mixes at 1996 Main Street, including the use of the finished compost product imported from the Vincent Flats site.

A threshold question is whether the processing of manure and the related materials to create compost constitutes the "preparation...of agricultural products". Is compost an "agricultural product"? If compost qualifies as an "agricultural product", then do the facts specific to VCC's operations mesh with the provisions of 10 V.S.A. 6001(22)(E)? VCC agrees in its jurisdictional submittals that the term "agricultural products" is not defined under 10 V.S.A. 6001 but points to a definition in the provisions of Vermont Statutes creating the Vermont Agricultural Credit Program, a program to encourage innovative farming techniques, implement best management practices for farm waste abatement and encourage innovative processing, marketing and distribution of agricultural products [10 V.S.A. 374 (a)(1-3)]:

"Agricultural products" means crops, livestock, forest products and other farm commodities produced as a result of farming activities [10 V.S.A. 374(b)].

The Environmental Board noted in its Scott Farm, Inc. [Declaratory Ruling 413 (January 16, 2003)] decision in a "farming" exemption case that the Vermont Department of Agriculture had not provided a definition of the term "agricultural products" (at page 8). The Board, in discussing the "principally produced" clause stated that "the majority of the weight or volume of the ingredients in the finished product" coming from the farm is the analysis to be applied. The Board also concluded "more importantly for purposes of this case, the process by which it is made" was to be examined. [Scott Farm, supra, at page 8] and that "we choose to look beyond the process to the end result..." (at page 10). The Scott Farms case dealt with a proposal to construct cooking school facilities that would be integrally related to the use of apples and other fruits grown on-site on a 571 acre farm.

“Composting” is defined by Vermont Solid Waste Management Rule 6-1102(d) as “the controlled biological decomposition of organic matter to produce a stable humus rich material”. Composted material is often used as fertilizer or mulch. While the statutory “farming” exemptions under Act 250 are to be narrowly construed, it is reasonable to conclude that there can be factual circumstances where materials resulting from agricultural land uses can be converted on the farm to an agricultural product in the form of compost. But such a conclusion must be based on “facts [that] clearly support the exemption” [*Josselyn, supra*] and the tests set out in *Scott Farms, supra*.

City of Montpelier Site

As is concluded below, the Vincent Flats site requires a land use permit under Act 250. That component of the VCC composting operation generates approximately 3,000 yards of finished compost annually which is then transported to the 1996 Main Street site. There, the Vincent Flats compost is eventually co-mingled with the approximately 439 yards of compost resulting from the poultry farming activities. The combined stream of compost is then blended to produce the horticultural mixes. The overall volume of the mixes does not consist of agricultural products principally produced at the farm situated at the 1996 Main Street property. In other words, more than 51% of the horticultural mixes consist of materials not produced at the farm at 1996 Main Street.

Therefore, the VCC compost operation at the 1996 Main Street site requires a land use permit under Act 250 because the construction of improvements, and resultant land use, are for a commercial purpose and not eligible for exemption under 10 V.S.A. 6001(22)(E) based on available facts.

In concluding that the Act 250 jurisdiction applies to the VCC operation at 1996 Main Street, it is noted that such jurisdiction is limited and does not extend to those areas of the tract on which the farming uses take place [10 V.S.A. 6001(3)(E)]. Jurisdiction is relevant only to the structures constructed for the commercial purpose, the areas of the tract involved in the commercial uses and impacts resulting under the criteria of Act 250. While it may be difficult to discern the lines of demarcation between the exempt farming uses and the commercial uses, such is the law. Similarly, while impacts have resulted on the interests of adjoining LaRosa from the land uses at 1996 Main Street, only those associated with the commercial uses may be evaluated in the review of an application for a land use permit. Other impacts on the interests of the LaRosas are within the purview of the City of Montpelier, Agency of Agriculture, Food and Markets and/or Agency of Natural Resources for consideration of action.

Town of East Montpelier Site

The composting facility at the 11 acre site on land owned by Fairmont Farms, Inc. involves the purchase of manure and other acceptable compostable materials by VCC from Fairmont Farms, Inc. The manure and compostable materials are products resultant from agriculture. However, the purchase of these agricultural products begins the transformation of the agricultural products into the commercial composting products that are the merchandise attaining the corporate purpose of VCC - “compost sales”. Although the finished compost at the 11 acre site is physically produced on land owned by Fairmont Farms, Inc., the compost product is not an agricultural product

principally produced on the farm. It is a product produced by VCC from agricultural products purchased from Fairmont Farms, Inc. for processing, along with the materials transported to the site from other farms and sources.

Therefore, the Vincent Flats site requires a land use permit under Act 250 because the construction of improvements, and resultant land use, are for a commercial purpose and not eligible for exemption under 10 V.S.A. 6001(22)(E) based upon available facts.

Please do not hesitate to call with any questions. Additionally, this office is available to assist VCC with the preparation of an application for a land use permit to encompass both sites.

Sincerely,

/s/ Edward Stanak
Edward Stanak
District Coordinator

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Natural Resources Board Rule 3(C).

Reconsideration requests are governed by Natural Resources Board Rule 3(C)(2) and should be directed to the district coordinator at the above address. Any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of issuance, pursuant to 10 V.S.A. Chapter 220. The appellant must attach to the Notice of Appeal the entry fee of \$225.00, payable to the State of Vermont. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. As of February 14, 2005 the address for the Environmental Court is: Environmental Court, 2418 Airport Rd., Suite 1, Barre, VT 05641-8701. (Tel. # 802-828-1660)

cc: Attached Service List